IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 289 of 2005

Date of Order : 20/11/2007

Darshna And Ors. VS. Giani Sohan Singh

Coram: HON'BLE MR. JUSTICE HEMANT GUPTA

Present: Mr.R.S.Kundu, Advocate for the appellants.

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J U D G M E N T

HEMANT GUPTA, J. (Oral)

The plaintiffs are in second appeal aggrieved against the judgment and decree passed by the learned First Appellate Court, whereby their suit for declaration that the plaintiffs have purchased the suit land vide sale deed dated 16.2.1996 for a consideration of Rs.45,000/- was dismissed in appeal.

Vide the aforesaid sale deed, the plaintiffs allegedly purchased the property situated in the abadi deh from Raman Kumar and Jatinder Kumar. The learned First Appellate Court found that Raman Kumar when examined as witness has not been able to depose how the title of the suit property was in his name. The plaintiffs' case was that the suit property was inherited by them through their mother Smt. Saraswati. But PW-6 Raman Kumar has deposed that his father Mathura Dass died at Village Barrian. His father's name in the statement is mentioned as Nand Lal. He mentioned his mother's name as Suhag Rani, whereas, as per the plaintiff, his mother's name is Saraswati. It was found that how the property was inherited by Raman Kumar, has not been established and, thus, the property purchased vide sale deed dated 16.2.1996 cannot convey any title to the plaintiffs as

Raman Kumar was not owner of the property.

It is argued by learned counsel for the appellants that the property in dispute situates in abadi deh and therefore, Raman Kumar was competent to sell the property as there is no revenue record about the property situated in abadi.

Having heard learned counsel for the appellants, I do not find any illegality or irregularity in the findings recorded. Even in respect of the abadi property, the plaintiff is required to prove title of his vendor. There is no evidence to prove the title of Raman Kumar etc. over the suit property. The evidence of Raman Kumar has been found to be totally contradictory to the case set up by the plaintiffs. The findings recorded by the learned First Appellate Court are sought to be disputed by re-appreciation of evidence.

In view of the above, I do not find any illegality or irregularity in the findings recorded by the learned First Appellate Court which may give rise to any substantial question of law for consideration of this Court in second appeal.

The present appeal stands dismissed in limine.

(HEMANT GUPTA)
JUDGE

20/11/2007
*mohinder